IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE NINETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE D.S.R.VARMA
WRIT PETITION NO : 26483 of 1995

Between:
V. Bhoodevi, W/o. Bheema Gowd, aged about 60 years,
R/o Narayankhed, Medak District.

..... PETITIONER

AND

1.The District Collector, Medak District, Sangareddy, Medak District.
2.The Divisional Panchayat Officer, Sangareddy, Medak District.
3.The Executive Officer, Gram Panchayat, Narayankhed, Medak District.
4.The Station House Officer, Narayankhed (M), Narayankhed,
Medak District.
5.The Mandal Revenue Officer, Narayankhed (M), Narayankhed,
Medak District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of mandamus declaring that the action of the respondents in purporting to demolish the shops constructed by the petitioner appurtenant to her house bearing no.1-8-54, Narayankhed Village and Mandal, Medak District, as proceedings no.172/95/A3-pts dated 6/11/1995 of the first respondent, is arbitrary and without jurisdiction and direct the respondents not to interfere or demolish the said shops of the petitioner.

Counsel for the Petitioner: MR.V.VENKATARAMANA

Counsel for the Respondents 1, 2, 4 and 5: GP FOR PANCHAYAT RAJ & RURAL DEVELOPMENT.

Counsel for the Respondent No.3: MR. KRISHNA KOUNDINYA.

The Court made the following:

ORAL ORDER:

Heard both sides.

2. The petitioner seeks a declaration that the action of the respondents in purporting to demolish the shops constructed by the petitioner appurtenant to her house bearing No.1-8-54, Narayankhed Village and Mandal, Medak District, as per the proceedings No.172/95/A3-Ptss, dated 06-11-1995, of the first respondent, as illegal, arbitrary and without jurisdiction.

3. It is the contention of the petitioner that she is the owner of house bearing No.1-8-54 in Narayankhed Village and Mandal, Medak District. The permission was accorded to construct some shops and as the petitioner could not proceed with the construction, the same was being extended from time to time.

4. A counter-affidavit has been filed by the third respondent *inter alia* stating that the first respondent received a representation, dated 03-02-1995, from the villagers stating that the construction of shops was made by the petitioner in the land belonging to the Pochamma Temple. Therefore, the authorities after verifying the matter and after conducting an enquiry came to the conclusion that

the land in which shops were constructed by the petitioner belongs to the said temple and issued a notice to the petitioner, which was received by the son of the petitioner on 04-04-1995. After knowing that the construction was going on, on the disputed land, again a notice, dated 25-05-1995, was issued to the petitioner, to stop construction on the land of the temple.

5. From the counter-affidavit, filed by the third respondent, it could be further seen that it is incorrect to say that the petitioner had already completed the constructions in February 1995 itself.

6. A perusal of the notice, dated 25-05-1995, reveals that the construction was going on during the month of April 1995.

7. It appears that earlier the petitioner had filed a writ petition in W.P.No.12456 of 1995, which was disposed of by this Court with a direction to the petitioner to approach the first respondent.

8. From the averments made in the affidavit, filed in support of the writ petition, and in the counter-affidavit, it appears that so many factual aspects are involved in the present writ petition. The factual aspects as regards the ownership of the temple or the right of the petitioner to make the constructions allegedly were being completed in February 1995, over the disputed land, involved in the present writ petition cannot be gone into by this Court under Article 226 of the Constitution of India.

9. Admittedly, insofar as the constructions that were being raised by the petitioner are concerned, of course, with the consent

of the third respondent, the petitioner can only be termed as permissive possessor.

10. For the foregoing reasons, suffice it to dispose of the writ petition with the following directions:

"The petitioner shall approach the first respondent by way of a representation within a period of eight weeks from the date of receipt of a copy of this order and on receipt of such representation, the first respondent shall consider and dispose of the same, in accordance with law, after conducting a thorough enquiry, within a period of six months thereafter. If the first respondent passes any adverse order, the same can be challenged by the petitioner by way of a civil suit before the competent civil Court inasmuch as, as already stated, various factual aspects have to be gone into."

11. With the above directions and observations, the writ petition is disposed of. However, there shall be no order as to costs.

12. The interim direction granted by this Court in W.P.No.26483 of 1995, dated 23-11-1995, as extended in W.P.M.P.No.32626 of 1995, dated 23-04-1996, until further orders, shall be in subsistence till the above directions are complied with.

D.S.R.VARMA, J

09TH SEPTEMBER 2004

KRK

To:

1.The District Collector, Medak District, Sangareddy, Medak District.
2.The Divisional Panchayat Officer, Sangareddy, Medak District.
3.The Executive Officer, Gram Panchayat, Narayankhed, Medak District.
4.The Station House Officer, Narayankhed (M), Narayankhed, Medak District.
5.The Mandal Revenue Officer, Narayankhed (M), Narayankhed, Medak District.
6.Two C.Cs to the Government Pleader for Panchayat Raj & Rural Development, High Court Buildings, A.P., (OUT).
7.Two C.D. Copies.